

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Revise and Clarify
Commission Regulations Relating to the Safety of Electric
Utility and Communications Infrastructure Provider
Facilities.

Rulemaking No. 08-11-005
(Filed November 6, 2008)

**DECISION GRANTING COMPENSATION TO MUSSEY GRADE ROAD
ALLIANCE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 14-02-015**

Claimant: Mussey Grade Road Alliance (MGRA)	For contribution to Decision (D.) 14-02-015
Claimed: \$25,916.19	Awarded: \$25,123.19 (reduced 3.1%)
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: Timothy Kenney

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	Decision adopting fire hazard regulations
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B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	No PHC	Verified
2. Other Specified Date for NOI:	2/19/2009	Verified
3. Date NOI Filed:	2/18/2009	2/19/2009
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.08-11-005	Verified
6. Date of ALJ ruling:	3/16/2009	Verified

7. Based on another CPUC determination (specify):	NA	
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.08-11-005	Verified
10. Date of ALJ ruling:	3/16/2009	Verified
11. Based on another CPUC determination (specify):	NA	
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-02-015	Verified
14. Date of Issuance of Final Order or Decision:	2/10/2014	Verified
15. File date of compensation request:	3/25/2014	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	X		Line 1. While there was a PHC in this phase of the process, the determination of MGRA eligibility for intervenor compensation in this proceeding was made during the initial phase of this project in accordance with rules specific to this proceeding, as acknowledged in the ALJ ruling of March 16, 2009.
2		X	Scoping Ruling of January 6, 2009 specified February 19, 2009 as the deadline to submit an NOI for this proceeding.

PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
Note: For definition of contribution types, see Comment 1 in Section C. For issue abbreviations, see Comment 2 in Section C.		

<p>For reference abbreviations, see Comment 3 in Section C</p>		
<p>1. Authored initial draft of data fields for collection and provided to SED. Worked with SED on revisions and improvements. MGRA also participated in workshops and helped to refine terms and definitions to make them acceptable to utilities, thus facilitating creation of a consensus proposal.</p> <p>Issue: DC</p> <p>Type: Contributor</p>	<p>MGRA-1210-Cmt, p.6: “There is a specific reason for and history of each of the data fields that has been listed in the technical panel proposal. Some of the justifications are technical and some are legal, and have resulted from intensive discussions between parties.” See also pp. 7-10.</p> <p>D.14-02-015, p. 78: “In Phase 3, Track 2 of this proceeding, the parties jointly developed a plan for the IOUs to collect and report data to SED regarding power-line fires, and for SED to use this data to (1) identify and assess systemic fire-safety risks associated with overhead power-line facilities, and (2) formulate measures to reduce the number of fires ignited by power lines.” See also Appendix C.</p>	<p>Yes</p>
<p>2. Specifically worked to preserve and define the fields relating to the initiating event (cause) and free-form Notes fields, both of which are fundamental to data collection.</p> <p>Issue: DC</p> <p>Type: Initiator</p>	<p>MGRA-1210-Cmt, p.8: “Regardless of whether the term ‘cause’ is used to determine the specifics of the scenario leading to fire ignition and possible spread, this set of fields constitutes the most critical data being collected.”</p> <p>Id: “Notes – An unexpectedly controversial field, this field allows the utility to record other information related to the circumstances of the ignition that do not fit into the other fields, and which the utility believes provided explanatory value.”</p> <p>D.14-02-015, p. C5: “Suspected Initiating Event: The suspected initiating event based on initial field observations;”</p> <p>C6: “Notes: An Optional Field, list additional information that could be useful when examining data.”</p>	<p>Yes</p>
<p>3. MGRA opposed contested proposals 6A and 6B that</p>	<p>MGRA-1210-Cmt, p. 3: “No changes to GO 95 should be made that reduce or</p>	

<p>would have resulted in wind loading standards less than SED's current interpretation.</p> <p>Issue: R48</p> <p>Type: Contributor</p>	<p>compromise the enforcement standards that are currently used by CPSD."</p> <p>D.14-02-015; p. 69: "Currently, Rule 48 establishes a single wind-load standard of 112/92 mph for Grade A wood poles in the Light Loading District."</p>	Yes
<p>4. MGRA opposed the inclusion of sample rules that would exclude poles under 60' in height from new regulations.</p> <p>Issue: R48</p> <p>Type: Primary</p>	<p>MGRA-1210-Cmt, p. 6: "Should the 60 foot or any other similar exemption be adopted, it would effectively negate the benefits of creating of special wind loading zones."</p> <p>No mention of 60' exclusion example in Decision or other Commission document.</p>	<p>No substantial contribution.</p> <p>MGRA's participation on this issue was not relevant to this proceeding.</p>
<p>5. MGRA opposed proposals to eliminate the "will not fail" clause of Rule 48 as being outside the scope of this proceeding.</p> <p>Issue: R48</p> <p>Type: Contributor</p>	<p>MGRA-1401-RCm, p. 1: "We continue to believe that "that elimination of the 'will not fail' provision in Rule 48 is <i>unrelated to the purpose of this proceeding because it does not enhance fire safety</i>", (emphasis added) a fact noted by the Alliance in its own arguments."</p> <p>D.14-02-015, p. 69: "Proposals to eliminate the 'will not fail' provision in Rule 48 are outside the scope of this proceeding."</p>	Yes
<p>6. MGRA opposed the inclusion of SCE testimony in the Decision comment phase.</p> <p>Issue: R48</p> <p>Type: Contributor</p>	<p>MGRA-1401-RM, p. 3: "The Commission must therefore reject SCE's motion on the grounds that admission of evidence at this point in the proceeding would violate substantial rights of parties to be provided the opportunity to review, comment on, and challenge evidence presented before the Commission."</p> <p>No mention of SCE's motion, testimony or assertions in D.14-02-015.</p>	<p>No substantial contribution. The SCE motion was denied on mootness grounds.</p>
<p>7. MGRA supports restriction of most stringent wind loading requirements based on the maps produced by Track 3.</p> <p>Issue: R48</p>	<p>MGRA-1401-RCm, p. 4: "Restriction of enhanced engineering requirements to areas where ignition of catastrophic utility fires is more likely, as identified in the Track 3 fire maps."</p>	Yes

Type: Initiator	D.14-02-015, p. 69: “We anticipate the fire-threat map(s) developed in Track 3 will allow a more granular and cost-effective wind-load standard that better protects public safety.”	
<p>MGRA favors optimizing the public benefit of regulations through applying a cost/benefit or risk/benefit analysis.</p> <p>Issue: R48</p> <p>Type: Initiator</p>	<p>MGRA-1401-RCm, p. 5: “Tying changes in regulations to a cost-benefit or risk-benefit analysis would optimize the level of safety that residents and ratepayers can expect for a given expenditure in rates.”</p> <p>D.14-02-015, p. 69: “We may use other criteria, too, including cost-risk-benefit considerations.”</p>	Yes

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹	yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	yes	Verified
c. If so, provide name of other parties: SED, CAL FIRE, Los Angeles County, Hans Laetz. Also worked with electrical utilities and communications providers on consensus efforts.		Verified
<p>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <p>All – MGRA organized telephone conferences to discuss strategies and substantive issues. Engaged in negotiations and discussions in phone workshops that resulted in consensus proposal for data collection plan.</p> <p>SED and LA County – Collaborated very closely with these two agencies. The scope of SED’s work was far broader than issues the Alliance restricted itself to, so we did not file jointly. We did, however, give SED proxy on a number of issues. Also, there was often sharing of draft filings between parties that helped to reduce duplication and align positions.</p> <p>Hans Laetz – Also collaborated with Mr. Laetz on a number of issues, and provided both procedural and technical advice.</p>		Verified

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

C. Additional Comments on Part II:

#	Claimant	CPUC	Comment		
1			Contribution Types	There are various types and levels of contribution that the Alliance interventions provided. These are defined and explained below.	
			Primary	A Primary contribution is one in which the Alliance made a unique and definitive difference in supplying information not supplied by any other party. The Alliance can show that "but for" its intervention, the Decision would have likely reached a different conclusion.	
			Initiator	In instances where the Alliance was an "Initiator", it was the first to bring a particular issue or analysis to the Commission's attention. Other parties subsequently made additions or improvements that were accepted by the Commission.	
			Contributor	While not initiating an analysis or study, the Alliance made a significant contribution to it. Also, in decisions or conclusions which take into account many different factors, the Alliance's results contribute one or more of these factors.	
			Improvement	The Alliance commented on an existing process or measure and its suggestion was adopted in the final decision.	
			Complimentary	The Alliance chose a different method or analysis than that used in the Final Decision, but which is consistent with it and supports the same results.	
			Alternative	The Alliance reached a conclusion or presented an analysis at variance with the Decision but which raised important points.	
2.	X		Abbreviations for issues that MGRA was involved in, and reference to applicable sections of Scoping memo for Phase 1 and Phase 2. Pr: Procedural DC: Track 2 – Data Collection R48: Track 1 - Rule 48 wind loading issues.		
3.	X		Abbreviations for citations to the record. A full list, including a breakdown of references by Issue, can be found in Attachment 4, MGRA_Phase2_Contributions.		
			Abbreviation	Document	
			MGRA-0812-Cmt	MUSSEY GRADE ROAD ALLIANCE COMMENTS ON ORDER INSTITUTING RULEMAKING R.08-11-005	

			MGRA-0812-Rpl	MUSSEY GRADE ROAD ALLIANCE LATE-FILED REPLY COMMENTS TO PARTIES ON ORDER INSTITUTING RULEMAKING R.08-11-005
			MGRA-1204-PHC	MUSSEY GRADE ROAD ALLIANCE PREHEARING CONFERENCE STATEMENT FOR R.08-11-005 PHASE 3
			CPUC-1206-Scp	ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO FOR PHASE 3 OF THIS PROCEEDING
			MGRA-1210-Cmt	MUSSEY GRADE ROAD ALLIANCE COMMENTS ON PHASE 3 REPORTS FROM TRACK ONE AND TWO TECHNICAL PANELS FROM TRACK ONE AND TWO TECHNICAL PANELS
			MGRA-1211-RCm	REPLY COMMENTS OF THE MUSSEY GRADE ROAD ALLIANCE ON PHASE 3 REPORTS FROM TRACK ONE AND TWO TECHNICAL PANELS
			MGRA-1312-Cmt	MUSSEY GRADE ROAD ALLIANCE COMMENTS ON PHASE 3 TRACK 1 and TRACK 2 DRAFT DECISION
			MGRA-1401-RCm	MUSSEY GRADE ROAD ALLIANCE REPLY TO COMMENTS ON PHASE 3 TRACK 1 and TRACK 2 PROPOSED DECISION
			MGRA-1401-RM	MUSSEY GRADE ROAD ALLIANCE RESPONSE TO EVIDENTIARY MOTION BY SOUTHERN CALIFORNIA EDISON
			D.14-02-015	DECISION ADOPTING REGULATIONS TO REDUCE THE FIRE HAZARDS ASSOCIATED WITH OVERHEAD ELECTRIC UTILITY FACILITIES AND AERIAL COMMUNICATIONS FACILITIES

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Intervenor's Claim of Cost Reasonableness	CPUC Verified
<p>D.14-02-015, p. 1: "In October 2007, strong Santa Ana winds swept across Southern California and caused dozens of wildfires. The resulting conflagration burned more than 780 square miles, killed 17 people, and destroyed thousands of homes and buildings. Hundreds of thousands of people were evacuated at the height of the fire siege. Transportation was disrupted over a large area for several days, including many road closures. Portions of the electric power network, public communication systems, and community water sources were destroyed."</p>	<hr/>

<p>Additionally, testimony in other proceedings has shown that property damage from power line fires in 2007 was in excess of \$2 B.</p> <p>While extreme weather of this type might possibly be expected only every few decades (undisputed MGRA testimony in A.09-08-021, p. 11, suggests a range between 20 and 200 years assuming historical weather will match future weather), unless the power line fire threat is addressed the public remains exposed to extensive losses. If we amortize such losses over time, for example, were to assume a \$2 B loss occurs every 50 years, this would be equivalent to an average cost to ratepayers of \$40 M / year.</p> <p>MGRA's proposed rules and other activities in this proceeding were designed to reduce this fire threat by collecting data that can be used to identify problems and measure the effect of countermeasures. Also, the Alliance strongly argued against proposed measures that would have weakened current enforcement standards used by SED. These initiatives are a critical part of longer term reduction of utility fire risks to an acceptable level.</p> <p>Even if the fractional risk reduction due to the adoption of the Commission's decision was small, the saving to ratepayers (not only economic, but in risks to their lives and well-being), would dwarf the amount of intervenor compensation being sought by the Alliance.</p>	Verified
<p>b. Reasonableness of Hours Claimed.</p> <p>The majority of the MGRA input was technical, and was prepared by MGRA expert witness Dr. Mitchell.</p> <p>Ms. Conklin worked on revisions and communications with other parties. Ms. Conklin is not requesting intervenor compensation for this portion of this proceeding, but wishes to preserve the right to compensation in future portions of this proceeding.</p> <p>Not all analysis prepared by Dr. Mitchell was used in the proceeding. No compensation is requested for unused work.</p> <p>Additionally, there are specific meetings by phone bridge attended by Dr. Mitchell for which no compensation is requested.</p> <p>Due to the length of and number of workshops comprising this proceeding, it was necessary for Dr. Mitchell to make a number of trips to San Francisco. We attended by phone bridge when possible and appropriate</p>	Verified
<p>c. Allocation of Hours by Issue</p> <p>Track 2 Data Collection (DC): 68.6 Track 1 Rule 48 (R48): 30.2</p>	Verified

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Mitchell	2012	32.2	270	D.13-02-012	\$8,694.00	30.2 ^[A]	\$275.00 ²	\$8,305.00
Mitchell	2013	36.1	275	D.13-02-012, ALJ-287	\$9,927.50	36.1	\$280.00 ³	\$10,108.00
Mitchell	2014	2.5	275	D.13-02-012, ALJ-287	\$687.50	0 ^[B]	\$285.00 ⁴	\$0.00
Subtotal: \$ 19,309.00						Subtotal: \$18,413.00		
OTHER FEES:								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Mitchell	2012	20	135	D.13-02-012	\$2,700.00	20	\$137.50	\$2,750.00
Mitchell	2013	8	137.50	D.13-02-012, ALJ-287	\$1,100.00	8	\$140.00	\$1,120.00
Subtotal: \$3,800.00						Subtotal: \$3,870.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Mitchell	2014	6.6	137.50	D.13-02-012, ALJ-287	907.50	6.6	\$142.50	\$940.50
Subtotal: \$ 907.50						Subtotal: \$940.50		
COSTS								
#	Item	Detail			Amount	Amount		
1	Travel	See Comment C.4 and associated attachment. All travel expenses were associated with the Data Collection rule (Track 2).			\$1899.69	\$1,899.69		
TOTAL REQUEST: \$25,916.19						TOTAL AWARD: \$25,123.19		
*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees								

² Approved in D.13-10-038.

³ Application of 2.0% Cost-of-Living Adjustment approved in Res. ALJ-287.

⁴ Application of 2.58% Cost-of-Living Adjustment approved in Res. ALJ-303.

paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

****Travel and Reasonable Claim preparation time are compensated at ½ of preparer's normal hourly rate.**

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	<p>Attachment 2 - MGRA_R08P3T12_IC_Mitchell.pdf Time sheets for Dr. Mitchell.</p> <p>The 2012 rate specified for Dr. Mitchell for the second phase of this proceeding was \$270/hr (D.13-02-012, p. 20).</p> <p>The following adjustments are authorized in ALJ-287: COLA of 2%</p> <p>The rate requested for 2013-2014 is then \$275/hr</p> <p>Billing tiers in this time sheet are as follows: Tier 0 - Unbilled time Tier 1 - Travel, Intervenor Compensation (1/2 expert rate) Tier 2 - Review/researching/revisions (full expert rate) Tier 3 - Authoring, analysis (full expert rate)</p>
3	Diane Conklin actively participated in this proceeding but declines to request intervenor compensation for this portion of it. MGRA wishes to preserve all rights for Diane Conklin to request intervenor compensation in this and all future proceedings in which she makes substantive contribution, and to be eligible for previously established intervenor compensation rates which have been approved by the Commission for her, including applicable adjustments.
4	See Attachment #3 - MGRA_R08Phase3_Expenses.pdf for a list of all expenses. Requested expenses include all travel costs for one pre-hearing conference and three workshops.
5	See Attachment #4 - R.08-11-005 MGRA_R08P3T12-Receipts.pdf for all receipts for costs included in the expense claim.

D. CPUC Disallowances and Adjustments:

Item	Reason
A	Reduction of two hours for participation relating to sample rules excluding poles under 60 feet in height from new regulations.
B	Reduction of 2.5 hours for participation relating to SCE's motion to supplement records.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
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B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	Yes
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FINDINGS OF FACT

1. Mussey Grade Road Alliance has made a substantial contribution to D.14-02-015.
2. The requested hourly rates for Mussey Grade Road Alliance's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$25,123.19.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Mussey Grade Road Alliance is awarded \$25,123.19.
2. Within 30 days of the effective date of this decision, the Commission's Intervenor Compensation Fund shall pay Mussey Grade Road Alliance the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning June 08, 2014, the 75th day after the filing of Mussey Grade Road Alliance's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D.14-02-015		
Proceeding(s):	R.08-11-005		
Author:	ALJ Kenney		
Payer(s):	Commission's Intervenor Compensation Fund		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Mussey Grade Road Alliance	03/25/14	\$25,916.19	\$25,123.19	N/A	Reductions for non-substantial contribution and increase for higher than requested rates.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Joseph	Mitchell	Expert	Mussey Grade Road Alliance	\$270.00	2012	\$275.00
Joseph	Mitchell	Expert	Mussey Grade Road Alliance	\$275.00	2013	\$280.00
Joseph	Mitchell	Expert	Mussey Grade Road Alliance	\$275.00	2014	\$285.00

(END OF APPENDIX)